

REMARKS/ARGUMENTS

Applicants have received the Office Action mailed January 9, 2004. Reconsideration of the claims is respectfully requested in view of the above amendments and the remarks below. Claims 4 through 21 are in the present application.

Rejections under 35 U.S.C. §103

The Examiner has rejected claims 1-4, 6, 7 and 10-17 under 35 U.S.C. §103 as being unpatentable over Schiesel, U.S. Patent No. 6,209,134, in view of Schellenbach, U.S. Patent No. 6,450,126. The Examiner states that Schiesel discloses an animal care garment comprising a front panel, a back panel, a neck opening therebetween, means for receiving food or waste, means for carrying small animals, and a pad serving as a perch area for a variety of birds.

The Examiner states that Schellenbach discloses an animal care garment also comprising a similar shoulder perch and that Schellenbach teaches that a plurality of perches could be utilized and placed parallel to one another providing versatility as a bird changes position that the size may vary to accommodate different bird grip sizes.

The Examiner further states that a generally cylindrical perch is a well-known shape in the art as shown by Schellenbach's shoulder perch and that there is no invention in merely changing the shape or form of an article without changing its function except in a design patent.

This statement of the law is overly broad since many inventions do consist of changes to the shape or form of an article to provide some advantage, even though the overall

function is the same as that of the prior art. Viewed another way, such changes in shape or form often do yield a change in function in terms of improvements in such functionality. Such is the present case.

Claim 4, as amended, is directed to an animal care garment comprising a pair of elongated, generally cylindrical, flexible, washable pads secured in parallel along the shoulder line of the garment to form a channel between the pads. None of the cited references individually or in combination render the claimed invention obvious. Schiesel teaches locating pads at the shoulder but does not teach generally cylindrical pads. Schellenbach discloses a cylindrical perch (not pad) that appears to take the form of a wooden dowel attached at either end to the shoulder of the garment and therefore teaches away from the flexible pad of the present invention. To the extent that Schellenbach discloses placement of multiple perches in proximity to one another, it teaches doing so to form a ladder down the front or back of the garment. Neither teaches generally cylindrical, flexible pads secured in parallel to form a channel between the pads. Neither teaches or implies use of a walled channel as claimed in amended claim 7.

Claim 18, newly presented, includes a limitation directed to receiving and retaining debris falling from the shoulder apexes. Independent claim 4 and dependent claims 15, 17, 20 and 21 contain similar, though distinct, limitations. The prior art does not disclose or teach these limitations. Schiesel discloses pockets that “can be used for hiding treats for the pets, or alternatively, the pets may use the pockets 28 and 30 as hiding places.” See Scheisel, column 3, lines 22-24. Scheisel does not disclose a lip, pocket or equivalent means designed for capturing falling debris. In particular, Scheisel does not disclose a lip or pocket that extends up

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the sides of the garment to capture food, waste or other debris falling from or ejected from the shoulder area.

The Examiner has rejected Claims 5 and 8-9 under 35 U.S.C. §103 as being unpatentable over Schiesel in view of Schellenbach, and in further view of Garay et al., U.S. Patent No. 5,315,957. Claims 5, 8 and 9 are dependent claims and are allowable as depending from independent claims 4 and 7. In combination, Schiesel, Schellenbach and Garay et al. do not disclose or teach a pad formed of fabric-covered rope attached along the shoulder line of an animal care garment without resorting to the present application for the suggestion to combine.

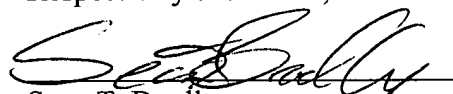
Conclusion

In view of the amendments contained herein and the above remarks, it is respectfully submitted that Claims 4 through 21 are patentable over the prior art of record. Accordingly, the Examiner is requested to issue a Notice of Allowance.

In the event that the Examiner is of the opinion that the prosecution of this application can be advanced thereby, she is invited and encouraged to contact Applicant's attorney at the telephone number listed below.

Respectfully submitted,

By



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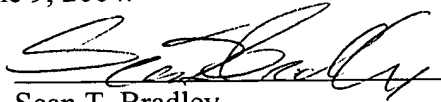
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Attorneys for the Applicant

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I hereby certify that this paper or fee is being deposited with the United States Postal Service as first class mail and is addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 9, 2004.

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